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10/774,242

02/06/2004

Patrick A. McKee

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07/13/2006

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73113

EXAMINER

ROBINSON, HOPE A

ART UNIT

PAPER NUMBER

1656

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,242

Applicant(s)

MCKEE ET AL.

Examiner

Hope A. Robinson

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 3-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/6/04;6/23/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Application Status

1. Applicant's election without traverse of Group I (claims 1-2) on August 24, 2005 is acknowledged. Applicant's representative was contacted on March 9, 2006 as the election was incomplete. Mr. Christopher Corbett elected SEQ ID NO:1 for prosecution on the merits on March 9, 2006.

2. Upon due reconsideration, the sequences set forth in claim 1 have been rejoined based on arguments presented by Mr. Corbett telephonically and a review of the application. Thus, the restriction requirement is withdrawn in part, pertaining only to the election of a specific sequence for examination.

3. Claims 1-21 are pending. Claims 1-2 are under examination. Claims 3-21 are withdrawn from further consideration pursuant to 37 CFR 1.12(b), as being drawn to a non-elected invention, there being no allowable generic or linking claim.

4. The Amendments filed on May 24, 2004 has been received and entered.

Specification

5. The specification is objected to because of the following informalities:

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The specification is also objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01. See page 42 for example. It is suggested that http:// is deleted.

Correction is required.

Abstract

6. The Abstract is objected to because of the following informalities:

The Abstract is objected to because it consists of two paragraphs. Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Correction is required.

Sequence Compliance

7. This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825; applicant's attention is directed to the final rule making notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). To be in compliance, applicant is required to identify all amino acid sequences of at least 4 L-amino acids and at least 10 nucleotides by a sequence identifier, i.e., "SEQ ID NO:". The specification discloses sequences that have not been identified by a sequence identifier, see for example, page 16, Table I and the text below the Table. If these sequences have not been disclosed in the computer readable form of the sequence listing and the paper copy thereof, applicant must provide a computer readable form of the "Sequence Listing" including these sequences, a paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification, and a statement that the content of the paper and computer readable form copies are the same and, where applicable, include no new matter as required by 37 CFR 1.821(e) or 1.821(f) or 1.821(g) or 1.821(b) or 1.825(d). See the attached Notice to Comply with the sequence rules.

Drawing

8. The Drawings filed on February 6, 2004 have been accepted by the Examiner.

Information Disclosure Statement

9. The Information Disclosure Statements filed on February 6, 2004 and June 23, 2005 have been received and entered. The references cited on the PTO-1449 Form have been considered by the examiner and a copy is attached to the instant Office action.

Claim Rejections - 35 USC 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

10. Claims 1-2 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-2 are drawn to an alpha2-antiplasmin protein, which reads on a product of nature. The claims should be amended to indicate the hand of the inventor, for example the insertion of "isolated" or "purified" in connection with the protein to identify a product not found in nature (see MPEP 2105).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Ludwig Institute For Cancer Research (WO 97/34927, 25 September 1997).

The reference discloses a sequence that is identical to the claimed SEQ ID NO:1 (N-terminus) and SEQ ID NO:4 (internal sequence) with a 100% sequence identity. In addition, the reference discloses a dimeric form of the claimed protein. Therefore, the limitations of the claim is met by the reference.

Conclusion

12. No claims are allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday from 9:00 a.m. to 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon P. Weber, can be reached at (571) 272-0925.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hope Robinson, MS

Patent Examiner

HOPE ROBINSON
PATENT EXAMINER

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7/10/06